

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FREE SPEECH COALITION, INC. et al.,

Plaintiffs,

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JEFFERSON B. SESSIONS, III,
Attorney General,

Defendant.

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) Civil Action No. 2:09-4607
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) Judge Michael M. Baylson
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DECLARATION OF JOHN SHEHAN

I, JOHN SHEHAN, hereby state and declare as follows:

1. I am currently employed as Vice President of the Exploited Children Division (“ECD”) at The National Center for Missing and Exploited Children® (“NCMEC”). I have been employed by NCMEC since February 2000. As Vice President, I am responsible for supervising NCMEC’s CyberTipline®. I am familiar with the operations of the CyberTipline, including the procedures involving the receipt and processing of reports by NCMEC and the procedures used to generate and maintain reports. The information contained in this declaration is based on my own personal knowledge and information to which I have access in my role as Vice President of ECD for NCMEC.

2. NCMEC is a private, nonprofit corporation, incorporated under the laws of the District of Columbia. It was created to help find missing children, reduce child sexual exploitation, and prevent child victimization. NCMEC serves as the national clearinghouse

for families, victims, private industry, law enforcement, and other professionals on information and programs related to missing and exploited children issues.

3. NCMEC began operating the CyberTipline on March 9, 1998, to serve as the national online clearinghouse for tips and leads about child sexual exploitation. The CyberTipline (<http://www.missingkids.org/gethelpnow/cybertipline>) was developed to further NCMEC's private mission of helping prevent and diminish the sexual exploitation of children by allowing the public and electronic service providers ("ESPs") to report online (and via toll-free telephone) the enticement of children for sexual acts, extra-familial child sexual molestation, child pornography, child sex tourism, child sex trafficking, unsolicited obscene materials sent to a child, misleading domain names, and misleading words or digital images on the Internet.

4. In addition to the publicly-available CyberTipline reporting mechanism, a secure CyberTipline was created in February 2000 to facilitate the reporting of apparent child pornography by ESPs. Once registered with the CyberTipline, ESPs can upload files relating to child sexual exploitation content when making reports to NCMEC using a secure electronic connection. Uploaded image files may include apparent child pornography image or video files or other reported child sexual exploitation content.

5. Currently, there are 1,423 ESPs registered with the CyberTipline, including but not limited to website hosting, social network, file and video sharing companies. The majority of ESPs registered with the CyberTipline are U.S.-based companies.

6. NCMEC staff cannot alter or change information submitted by a reporting ESP. Other than the incident type, date, and time, NCMEC does not direct or mandate the type of information that an ESP may choose to submit in a CyberTipline report, but instead

provides voluntary reporting fields that ESPs may populate with information related to the report.

7. NCMEC's systems may conduct publicly-available automated processes on the information submitted by the ESP to try to identify potential geographic information pertaining to the individual who is the subject of the report as well as geographic information of the ESP potentially used in connection with the reported content. When the potential geographic location identified in a CyberTipline report resolves to an international location, NCMEC's systems can automatically make the report available to the appropriate foreign law enforcement agency without any additional review by NCMEC staff.

8. Currently NCMEC makes CyberTipline reports with an international nexus available to more than 100 countries and law enforcement agencies around the world, including Europol and INTERPOL.

9. As part of NCMEC's work to prevent the further victimization of children and to discover trends that can assist in preventing these crimes, for reports that do not resolve internationally, NCMEC staff review content reported to the CyberTipline and upon completion of processing the reports, make the reports available to law enforcement in appropriate jurisdictions for independent review. CyberTipline reports that resolve to a potential geographic location in the U.S. are made available to both federal and state law enforcement agencies, specifically the Internet Crimes Against Children taskforces. If a potential geographic location cannot be determined for a CyberTipline report, the report is made available to the Federal Bureau of Investigation, Department of Homeland Security, Immigration and Customs Enforcement, U.S. Secret Service, U.S. Inspection Postal Inspection Service, Child Exploitation and Obscenity Section of the U.S. Department of

Justice, Naval Criminal Investigation Service and Army Criminal Investigation Command for their independent review. Throughout this process, NCMEC constantly triages CyberTipline reports to ensure that children who appear to be in imminent danger get first priority.

10. In the past four years, NCMEC has experienced a tremendous increase in CyberTipline reports. For fiscal year 2013 (October 1, 2012 to September 30, 2013), NCMEC received 519,967 CyberTipline reports of which 506,611 reports were designated by the submitting party as being related to apparent child pornography. For fiscal year 2014 (October 1, 2013 to September 30, 2014), NCMEC received 737,895 CyberTipline reports of which 713,377 reports were designated by the submitting party as being related to apparent child pornography. In fiscal year 2015 (October 1, 2014 to September 30, 2015), NCMEC received 3,798,741 CyberTipline reports of which 3,770,606 reports were designated by the submitting party as being related to apparent child pornography. In fiscal year 2016 (October 1, 2015 to September 30, 2016), NCMEC received 7,831,974 CyberTipline reports of which 7,800,357 reports were designated by the submitting party as being related to apparent child pornography. For fiscal year 2017 (October 1, 2016 to September 30, 2017), NCMEC received 9,906,692 CyberTipline reports of which 9,864,767 reports were designated by the submitting party as relating to apparent child pornography.

11. In NCMEC's experience, the number of images or videos being collected and traded by offenders continues to expand exponentially, and this content often includes graphic and violent sexual abuse featuring young children, including infants. Despite various U.S. and international criminal and civil efforts to stem the tide, the proliferation of child sexual abuse material online remains a continuing problem.

12. The exponential increase in apparent child pornography reports to NCMEC's CyberTipline is due to multiple factors, including the international nature of the crime; voluntary adoption by technology companies of new technology to locate and remove child sexual exploitation content from their platforms; and increased ease of using the Internet to facilitate storing and sharing large volumes of apparent child pornography images and videos among offenders.

13. In 2014, approximately 18% of the reports submitted to NCMEC's CyberTipline by U.S.-based ESPs regarding apparent child pornography involved an individual located in the U.S. In 2015, approximately 6% of the reports and in 2016, approximately 5% of the reports submitted by U.S.-based ESPs concerning apparent child pornography resolved to a U.S. domestic location.

14. While the majority of CyberTipline reports received by NCMEC are submitted by an ESP, members of the public can also submit reports either online or via NCMEC's toll-free telephone number. For fiscal year 2013 (October 1, 2012 to September 30, 2013), the members of the public submitted 79,977 CyberTipline reports compared to 439,990 reports submitted by ESPs. For fiscal year 2014 (October 1, 2013 to September 30, 2014), the members of the public submitted 79,122 CyberTipline reports compared to 658,773 reports submitted by ESPs. For fiscal year 2015 (October 1, 2014 to September 30, 2015), the members of the public submitted 87,361 CyberTipline reports compared to 3,711,380 reports submitted by ESPs. For fiscal year 2016 (October 1, 2015 to September 30, 2016), the members of the public submitted 109,819 CyberTipline reports compared to 7,722,155 reports submitted by ESPs. For fiscal year 2017 (October 1, 2016 to September

30, 2017), the members of the public submitted 106,909 CyberTipline reports compared to 9,799,783 reports submitted by ESPs.

15. In furtherance of our mission and clearinghouse role, NCMEC works with the Internet industry in a combined goal and effort to reduce the proliferation of child sexual abuse images. NCMEC provides information related to apparent child pornography images with ESPs for purposes of preventing the further transmission of these images. One of these voluntary initiatives with the Internet industry includes notifying ESPs when NCMEC receives information concerning active, publicly-viewable web pages depicting apparent child pornography on their site. NCMEC can provide this notification via email which provides a list of active, publicly-viewable URLs related to the depiction of apparent child pornography content.

16. In 2014, NCMEC provided 21,499 URL notifications to ESPs. In 2015, NCMEC sent 45,923 URL notifications and in 2016, NCMEC sent 45,243 URL notifications. In 2017, NCMEC provided 56,565 notifications relating to apparent child pornography being depicted on active, publicly-viewable URLs.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

DATED: Alexandria, Virginia, January 3, 2018.



JOHN SHEHAN